



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/480,731	01/06/2000	JOSEPH GIORDANO III	004444.P003	4667

8791 7590 09/02/2003

BLAKELY SOKOLOFF TAYLOR & ZAFMAN  
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR  
LOS ANGELES, CA 90025

EXAMINER

RICE, KENNETH R

ART UNIT	PAPER NUMBER
----------	--------------

DATE MAILED: 09/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/480,731

Applicant(s)

Giordano et al.

Examiner

Kenneth R. Rice

Group Art Unit

3627

--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--

### Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period of response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- ☒ Responsive to communication(s) filed on 7/10/03.
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- ☒ Claim(s) 1, 2, 4, 6, 7, 9, 11, 12, 14, 16, 17 and 19 is/are pending in the application.  
Of the above, claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 1, 2, 4, 6, 7, 9, 11, 12, 14, 16, 17 and 19 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claims are subject to restriction or election requirement.

### Application Papers

- ☐ See the attached Notice of Draftsman's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Status of Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. .
  - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \*Certified copies not received: .

### Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsman's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other

### Office Action Summary

### PART III: REASONS FOR REJECTIONS AND OBJECTIONS

The following is a quotation of 35 USC 103 which forms the basis for all obviousness rejections set forth in this Office action:

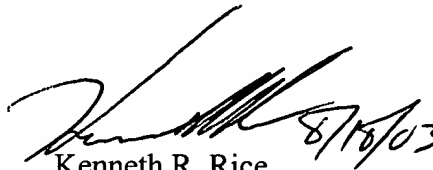
A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made. Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

This application currently names joint inventors. In considering patentability of the claims under 35 USC 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 USC 102(f) or (g) prior art under 35 USC 103.

Claims 1, 2, 4, 6, 7, 9, 11, 12, 14, 16, 17 and 19 are rejected under 35 USC 103 as being unpatentable over Suzuki in view of Davis et al. Suzuki discloses the invention substantially as claimed. However, Suzuki does not disclose the use of a personal electronic device. Davis et al teaches the use of a smart card with a personal electronic device (column 8, lines 10-32) in the same field of endeavor for the purpose of communicating with a merchant server. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a personal electronic device with a smart card reader such as that shown by Davis et al in the system of Suzuki in order to communicate with a merchant server.

Applicant's arguments with respect to claims 1, 2, 4, 6, 7, 9, 11, 12, 14, 16, 17 and 19 have been considered but are moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Rice at (703) 308-3495. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 308-1113.

  
Kenneth R. Rice  
Primary Examiner  
Art Unit 3627